

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NOS. TF-02-232 WRU-02-21-263
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**ORDER APPROVING TARIFF, GRANTING WAIVER, AND  
DENYING REQUEST TO DOCKET TARIFF**

(Issued June 29, 2002)

On May 30, 2002, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a proposed tariff removing Local Area Data Service (LADS) and certain private line services from its tariff and placing those services in a deregulated catalog. The tariff has been identified as Docket No. TF-02-232.

On June 17, 2002, Iowa Independent Advanced Telecommunications Association (IIATA) and LTDS Corporation (LTDS) filed a joint objection to Iowa Telecom's tariff and requested the tariff be docketed for investigation. IIATA is a non-profit organization comprised of internet service providers (ISPs) primarily serving rural Iowa. LTDS is a competitive local exchange carrier (CLEC) that also offers wholesale data services to ISPs in south-central and southeast Iowa.

In support of their objection, IIATA and LTDS state that ISPs typically use LADS and local private lines to deliver their broadband telecommunications services.

IIATA and LTDS assert that the removal of these services from Iowa Telecom's tariff violates Iowa Code §§ 476.100 and 476.101, as well as 47 U.S.C. § 251(c)(4)(A).

On June 21, 2002, Iowa Telecom filed a response to IIATA's and LTDS's objection stating that these services have been identified by the Board as deregulated services in Docket No. INU-95-3. Iowa Telecom also states that it will continue to provide these services on a deregulated basis and that the movement from the regulated tariff to a deregulated catalog will not cause the withdrawal of the service from new customers or place any limits on the service.

On June 25, 2002, IIATA and LTDS filed a joint reply to Iowa Telecom's response wherein they reassert their initial objections to Iowa Telecom's tariff and state that Iowa Telecom should be required to meet the statutory burden of showing effective competition for the LADS and private line services as required by Iowa Code § 476.1D.

The Board deregulated high and low capacity intraexchange and high capacity interexchange private line digital services, of which LADS is one type, in its "Order" issued September 5, 1984, in Northwestern Bell Telephone Co., Docket No. RPU-84-8. The Board affirmed the deregulation of these services in its "Order Finding Certain Services Subject to Effective Competition and Other Services Not Subject to Effective Competition," issued May 20, 1996, in Deregulation of Competitive IntraLATA Interexchange Services, Docket No. INU-95-3. In addition, Iowa Telecom has stated that these services will be available to parties on a deregulated basis and will not be eliminated altogether. The transfer of a deregulated service from a tariff to a deregulated catalog is consistent with the service being removed from Board

jurisdiction pursuant to Iowa Code § 476.1D. This action does not show discrimination against another telecommunications provider. IIATA's and LTDS's objection does not show a violation of any statutory provision.

However, the Board notes that while these services are in the deregulated catalog, the board can exercise its jurisdiction under Iowa Code §§ 476.100 and 476.101 to prevent anticompetitive behavior. See McLeod Telemanagement, Inc., v. U S West Communications, Inc., "Decision and Order," Docket Nos. FCU-96-1 and FCU-96-3, June 14, 1996. This exercise of jurisdiction in McLeod was affirmed by the District Court. In addition, the Board may also exercise authority under 47 U.S.C §§ 251 and 252 to prevent anticompetitive behavior.

IIATA and LTDS also request Iowa Telecom be required to prove effective competition for the services it wishes to remove from its tariff pursuant to Iowa Code § 476.1D. As previously discussed, these services have been deregulated. Consequently, Iowa Telecom is not required to meet that burden again.

Iowa Telecom also requested a waiver of the accounting plan requirements of Iowa Code § 476.1D and 199 IAC 5.7"b" and "c." In support of its request, Iowa Telecom states that it operates under a price regulation plan, therefore, a deregulation accounting plan would be useless. The Board has previously visited this issue in U S West Communications, Inc., Docket No. WRU-99-7-272. In its "Order Granting Request for Waiver" issued March 13, 1999, in that docket, the Board waived the requirement finding that "a formal deregulation accounting plan would not serve any useful purpose when U S West is operating under price regulation as its rates are not based upon the current cost of providing service." The

Board also determined in that docket that price regulation renders the accounting plan requirement of Iowa Code § 476.1D to be meaningless. As Iowa Telecom operates under price regulation, the Board will grant Iowa Telecom's request for waiver of 199 IAC 5.7"b" and "c."

**IT IS THEREFORE ORDERED:**

1. The tariff identified as Docket No. TF-02-232, filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on May 30, 2002, is approved. The tariff will become effective upon the issuance of this order.
2. The waiver request, identified as Docket No. WRU-02-21-263, filed by Iowa Telecommunications Inc., d/b/a Iowa Telecom, on May 30, 2002, is granted. The application of Iowa Code § 476.1D (2001) and 199 IAC 5.7"b" and "c" regarding accounting plan requirements is waived.
3. The joint objections and requests to docket this tariff filed by Iowa Independent Telecommunications Association and LTDS Corporation on June 17, 2002, and June 25, 2002, are denied.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 28<sup>th</sup> day of June, 2002.